

April 1, 2005

Requirements for Criminal Background Checks

Q: What is the JCAHO requirement for criminal background checks and for which type of individual must it be performed?

A: Standard HR.1.20 for staff, students and volunteers who work in the same capacity as staff who provide care, treatment, and services, at EP 5 states criminal background checks are verified when required by law and regulation and organization policy.

This means that if state law, regulation or organization policy requires background checks on all employees, volunteers and students, JCAHO expects them to be done on all three categories.

If state law requires background checks on only specified types of health care providers (e.g. nursing assistants/child care workers), then JCAHO would require background checks on only those specified in state law (unless organization policy goes beyond state law).

If state law requires background checks on all "employees", the organization should seek an opinion from the state on what categories of health care workers are considered "employees". If the state clearly does not consider volunteers or students to be employees, then JCAHO would not require background checks on them (unless organization policy goes beyond state law and requires it).

If state law is ambiguous as to the definition of employee, the organization can define the scope of background checks to fit its own definition. As such, they may include or exclude students and volunteers, and JCAHO would survey to hospital policy.

In the absence of a state law on criminal background checks, each organization can develop its own expectations, e.g., and organization elects to screen employees and not students/volunteers. JCAHO would evaluate compliance with the organization's internal policy only. There would be no JCAHO expectation that an organization check categories of providers beyond what is required in their own policy, which must comply with law and regulation.